

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 161 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No
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B A SARVAIYA

Versus

YUNUSBHAI H MUKATISH

Appearance:

MR DEVANG TRIVEDI for MR KV SHELAT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 06/07/2000

ORAL JUDGEMENT

1. Heard learned counsel for the appellant Mr.Devang Trivedi appearing for Mr.K.V.Shelat. None appears for the respondent.

2. By virtue of the order passed in Civil Application No.1698 of 1995 in this appeal, the appellant is enjoying the use and possession of the truck in question as the impugned order made below application at Ex.5 in Special Civil Suit No.74 of 1994 has been stayed

and that stay is confirmed and operates till today.

3. It is fairly submitted that, since the main issues arising in the original civil suit are required to be decided on the basis of evidence that may be led before the trial Court and as the original civil suit is ripe for hearing and final disposal, it will be proper and in the interest of justice if the injunction presently operating is continued and the trial Court is ordered to hear and decide the original civil suit as expeditiously as possible.

4. Even otherwise, the injunction granted by the trial Court by virtue of the impugned order is not sustainable in view of the fact that the respondent has filed the suit to recover damages, and, injury or loss, if any, caused to him could be compensated in terms of money.

5. Therefore, without entering into the details of merits and demerits of the impugned order, it is ordered that the interim relief granted by the impugned order shall stand vacated and the original civil suit shall be heard and decided as expeditiously as possible, preferably within six months from today.

6. It is stated at the Bar that the truck in question is in possession of the appellant. The appellant shall not sell or transfer the truck till the final disposal of the original civil suit. On these conditions, the appeal is allowed with no order as to costs.

(KMG Thilake)

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